

Body: Licensing Sub Committee
Date: 20 September 2005
Subject: Application For Conversion & Variation of A Premises
Licence For Strollers, Princes Park, Eastbourne, BN22 7AE
Report Of: Kareen Plympton, Licensing Manager
Ward(s)
Purpose To determine a variation application under the Licensing
Act 2003 for an existing licensed premises
Contact: Kareen Plympton, Licensing Manager, Telephone 01323
415937 or internally on extension 5937
E-mail address kareen.plympton@Eastbourne.gov.uk

1.0 Introduction & Background

- 1.1 An application has been received by Strollers, Princes Park, Eastbourne, East Sussex. The premise is a café/function venue house with an outside drinking area at the front of the premises.
- 1.2 The site have traded as a licensed premises without conditions and have applied to convert their Justices On Licence under the "grandfather rights" system established by the Licensing Act 2003. This allows them to supply alcohol within the previous permitted hours and restrictions as set by the Licensing Act 1964, namely:
- 1000 hours – 2300 hours Monday – Saturday
1200 hours – 2230 hours Sunday
1000 hours – 1500 hours Christmas Day
1900 hours – 2230 hours
1200 hours -2230 hours Good Friday
- New Years Eve – New Years Day as per Government deregulation Order
- 1.3 In respect of the application for Conversion of the premises licence, no representations have been received from Sussex Police and as such, this part of the application is deemed granted and has been determined as such within statutory timescales.
- 2.0 The applicant has applied at the same time for a variation of such a premises licence in this transitional period, pursuant to Schedule 8 Para 71(b) of the Licensing Act 2003. The premises application form, found in Appendix A, seeks permission for the following licensable activities:-

Provision of regulated entertainment, comprising of:

SECTION E

Live Music – for private functions – both amplified and unamplified

Monday – Saturday 1900 hours – 0100 hours
Sunday Not applicable

SECTION F

Recorded music – background and for discos

Monday – Saturday 1000 hours – 0100 hours
Sunday 1000 hours – 1800 hours

SECTION I

Provision of facilities for making music – for private functions, bands or groups. Amplified and unamplified

Monday – Saturday 1900 hours – 0100 hours
Sunday Not applicable

SECTION J

Provision of facilities for dancing – dancing to bands and discos

Monday – Saturday 1900 hours – 0100 hours
Sunday Not applicable

SECTION M

Supply of alcohol

Monday - Saturday 1100 hours – 2400 hours
Sunday Not applicable

SECTION O

Open to the public – open summer season, Easter to the end of September and open for private functions in the evenings and during “out of season.”

Monday - Sunday 1000 hours – 1800 hours

Non standard timings – when the premise is open for private functions the premises shall trade 1000 hours – 0100 hours.

3.0 Consultation Process

- 3.1 The Licensing Act 2003 requires applicants to advertise variations both on the premises and in a local newspaper to inform the public of the application. A number of “Responsible Authorities” are also consulted, allowing a consultation period of 28 days for representations to be made. As a result of the consultation process, representations have been received.

4.0 The Decision Making Process **The Licensing Objectives**

4.1 In their decision making, the Licensing Committee must act to promote the four Licensing objectives. All carry equal weight as part of the process. The licensing objectives are:

- A) The prevention of crime and disorder
- B) Public safety
- C) The prevention of public nuisance
- D) The protection of children from harm

5.0 The Application

5.1 When submitting an application to vary a licence under the Licensing Act 2003, the applicant is required to describe the additional steps, if any; it intends to take to promote the four Licensing Objectives. The applicants' declaration can be seen on Page 24 of the application form. (Appendix A)

6.0 Eastbourne Borough Councils Statement Of Licensing Policy (Copies Previously Circulated As Reference Material To Committees. Can also be located at www.eastbourne.gov.uk/licensing.)

6.1 Whilst each application will be considered on its merits, the Licensing Committee will have due regard for the Eastbourne Borough Council Licensing Statement and the promotion of the 4 Licensing Objectives.

(A) The Prevention Of Crime and Disorder

Eastbourne Borough Council (EBC) Statement Of Licensing Policy states that the Operating Schedule should include steps to ensure the deterrence and prevention of crime and disorder on and in the vicinity of premises. The restriction of types of licensable activity, hours and imposition of conditions may be considered and applied as appropriate.

(B) Public Safety

EBC Statement of Licensing Policy states that the Operating Schedule should include steps to ensure the physical safety of patrons. This might include the imposition of conditions regarding capacity and mechanisms to promote responsible drinking. The restriction of types of licensable activity, hours and imposition of conditions may be considered and applied as appropriate.

(C) Prevention of Public Nuisance

EBC Statement Of Licensing Policy states that within the Operating Schedule, applicants will be required to demonstrate how they intend to prevent nuisance arising, disturbance occurring and mechanisms to

protect amenities. The restriction of types of licensable activity, hours and imposition of conditions may be considered and applied as appropriate.

(D) Protection of children from harm

EBC Statement Of Licensing Policy requires that operating plans must specify the measures and management controls in place to protect children from harm. Conditions can be placed to restrict access to children from accessing the premises during certain times or when certain licensable activities are taking place. The restriction of types of licensable activity, hours and imposition of conditions may be considered and applied as appropriate.

7.0 Representations (Appendix B)

A full copy of all representations is included in Appendix B, however a summary appears below. All those making representations are entitled to attend the hearing in support of their case.

Interested Parties

**The following individuals make representations as "interested parties living in the vicinity of the premises."
It is a matter for the Committee to determine whether those interested parties making representations resides in the vicinity of the premises. Representations cover all 4 Licensing Objectives**

- Mr and Mrs Collwell of Wannock Road, Eastbourne
- Mr and Mrs Callum of Channel View Road, Eastbourne
- Mr and Mrs Fenn of Seaford Road, Eastbourne
- Mr Peck of Wartling Road, Eastbourne
- Mr and Mrs Putland of Wartling Road, Eastbourne
- Mr and Mrs Tatum of Channel View, Eastbourne
- Mrs Hollingdale of Coleridge Walk, Eastbourne
- R A Paterson of Benbow Avenue, Eastbourne
- Mrs Hills of Alexandria Road, Eastbourne
- KE Graham of Beach Road, Eastbourne

- DR Burrows of Latimer Road, Eastbourne
- Mr Vincent of Vine Square, Eastbourne
- Mrs Lambert of Channel View Road, Eastbourne
- Mr Wallis of The Village, Eastbourne
- Mrs Archer of Royal Parade & Redoubt Bowling Club, Eastbourne on behalf of 31 other members
- Mr Allaway of Royal Parade, Eastbourne
- Mr & Mrs Sheath of Winchelsea Road
- Ms Caro of Channel View Road, Eastbourne
- Mr Swan of Vine Square, Eastbourne
- Ms Swan of Vine Square, Eastbourne
- Mrs Taylor of Alexandra Road, Eastbourne
- Ms Bartholomew of Winchelsea Road, Eastbourne
- Mr Colin Hunt of Winchelsea Road, Eastbourne

- Messers Draycott et al of Channel View Road, Eastbourne
- Mr Keith Drummond of 100 Channel View Road, Eastbourne
- Mr Rob Fallows of Rye Street, Eastbourne
- Mr Ward of Frobisher Close, Eastbourne
- D Manktelow of Channel View Road, Eastbourne

- Mr G Burgess appears as the spokesperson for in excess of 100 signatories. Councillor Healy will be appearing on thier behalf.
- Mr Andrew Tilney. Parks Ranger, makes a representation as a local business operating in the area. Representations centre on the public nuisance and public safety objectives.
- Mr Tmothy Camp of The Far End Hotel, makes representations as a local business operating in the vicinity. Representations centre on the prevention of crime and disorder and public nuisance objective

Representations from Responsible Authorities

- Police – no representations
- Fire – No representations
- Health and Safety – No representations
- Planning EBC – No representations
- Area Child Protection – No representations
- Environmental Health EBC – No representations
- Trading Standards East Sussex County Council – No representations

7.1 Discussions with all parties, including the applicants have failed to resolve matters, hence the case being brought to Committee.

7.2 Conditions may be added to licences or revisions made as considered necessary for the promotion of the Licensing Objectives. Only necessary, proportionate and reasonable licensing conditions should be imposed on licences on a case by case basis.

8.0 Options Open To The Panel

8.1. The Panel must have regard for the Local Authority Licensing Statement and statutory guidance in the Licensing Act 2003. Copies of Guidance under Section 182 of the Licensing Act 2003 and Eastbourne Borough Councils Licensing Statement have been provided to the Licensing Committee as reference material.

8.2 The Panel must take the steps it considers necessary for the promotion of the Licensing Objectives and may:-

- a) Grant the application as requested
- b) Grant the application but modify it by altering hours or activities, adding conditions, or omitting parts as necessary for the promotion of the licensing objectives.
- c) Reject the whole or part of the application

9.0 Legal Considerations

- 9.1 The Department for Culture, Media and Sport has issued Guidance under Section 182 of the Licensing Act 2003. This guidance is provided to assist the Authority in carrying out their functions. Furthermore, the Licensing Panel must have due regard for the Eastbourne Licensing Statement.

Human Rights

- 9.2 The provisions of the Human Rights Act, 1998, must be borne in mind by the Committee when taking licensing decisions under the Licensing Act, 2003. Particular regard should be had to Article 1 of the First Protocol, which relates to the protection of property and the peaceful enjoyment of possessions and property. Article 8 - which relates to the right to respect for private and family life, home and correspondence - should also be borne in mind. While the Human Rights Act makes it unlawful for a local authority to act or to fail to act in a way that is incompatible with a Convention right, Article 1 of the First Protocol and Article 8 are both qualified rights which means that interference - to a justifiable extent - may be permitted as long as what is done:

- Has a basis in law;
- Is intended to pursue a legitimate purpose
- Is necessary and proportionate; and
- Is not discriminatory.

10.0 Background Material

- Licensing Act 2003
- LACORS Guidance – Committee Hearings
- Section 182 Statutory guidance to the Licensing Act 2003
Hearing and Regulations
- Eastbourne Borough Council Licensing Statement 2005
- Human Rights Act 1998